

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
MAY 23, 2000**

PRESENT: Roy Pfeffer, Rick Unbehaun, Daniel Densow, W. Robert Cress, Peter Schils, and Bonnie Gift

EXCUSED: None.

STAFF PRESENT: Cletus Hansen; Division of Enforcement staff, for portions of the meeting

GUESTS: Mark Paget, WFDA
Kathy O'Sullivan, Advisory Committee on FD Apprenticeship Issues
Mark Krause, FSA and Advisory Committee on FD Apprenticeship Issues
Ashley Moore, FSA
Pete Christianson, Quarles and Brady, LLP
Mark McCool, Wisconsin Burial Vault Association
Barbara Schuler, Wisconsin Technical College System

CALL TO ORDER

The meeting was called to order at 9:32 a.m. by Roy Pfeffer, Chair. A quorum of 6 members was present.

AGENDA

MOTION: Peter Schils moved, seconded by Dan Densow, to adopt the agenda, as published. Motion carried unanimously.

MINUTES (3/14/00)

MOTION: Dan Densow moved, seconded by Bonnie Gift, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Cummings' Report

Secretary Cummings was not available at the usual time during the morning portion of the meeting; however, she appeared before the board at 1:45 p.m., as also scheduled on the published agenda.

Bureau Director's Report

Board Roster

The Board received an updated roster. Noted.

2000 Meeting Dates

The Board noted the list of scheduled meeting dates. Rick Unbehaun said that he will not be able to attend the meeting scheduled for July 18, 2000. Bonnie Gift said that she may also have a conflict on that date.

To-Pass Folder

The To-Pass Folder was circulated and duly noted.

Regulatory Digest

The Board members noted the copy of the May 2000 issue of the Regulatory Digest. Dan Densow complimented the staff on the quality of the Digest.

LEGISLATIVE UPDATE

Regulation of Crematories

The Board discussed a memorandum submitted by Legal Counsel, Jacquelynn Rothstein. Ms. Rothstein offered comments and suggestions regarding the proposal prepared by Dan Densow and several colleagues. The Board informally agreed that Dan Densow should consider making changes to the proposal, in view of the suggestions of Ms. Rothstein.

The Board also discussed a letter sent by Diego Camacho, Jr., on February 9, 2000. The Board informally agreed that Clete Hansen should send a letter to Mr. Camacho, indicating that when the laws of two states come into play, the situation can become a bit more complex. The board does not have authority over coroners and it will not be able to address this issue in its cremation proposal.

Dan Densow requested that a copy of the proposal be sent to the Cemetery Advisory Committee and the Cemetery Task Force.

Assembly Bill 869 – Certificates in Good Standing

The Board noted that this bill did not pass, because the Legislature ran out of time. The Board informally agreed that it will wait to see whether the bill is re-introduced in the 2001-2002 Legislature and the Board will take appropriate action at that time.

Assembly Bill 538 and Senate Bill 257 – Minimum Benefit Requirements for Life Insurance Policies

These bills have been passed into law as 1999 Wisconsin Act 191.

The Board briefly discussed the nature of final expense policies and insurance funded-burial agreements, and current practicing regarding the marketing of these forms of insurance. A member of the audience informed the Board that some funeral establishments have been gratuitously making arrangements for final expense policies which they will honor at the time of death.

Senate Bill 483 – Class A & Class B Establishments

The Board requested that Legal Counsel, Jacquelynn Rothstein, prepare a legal analysis of the bill. Dan Densow suggested that the regulation of Class A and Class B funeral establishments should be clarified in the bill.

DEPARTMENT OF REGULATION AND LICENSING POLICY ENTITLED: “APPLICATION PROCEDURES RELATING TO ARREST AND CONVICTION RECORDS”

Noted.

EXAMINATION ISSUES

None.

BOARD MEMBER ACTIVITY

Some Board members commented on the Wisconsin Funeral Directors Association Convention, which was held in Milwaukee last week.

SALE OF FUNERAL SERVICES & MERCHANDISE IN A RETAIL SETTING

The Board noted the statutes and rules that apply to these marketing activities. The Board also noted the note following s. 445.105 (5), Wis. Stats., which says: “Licensing requirements prohibit operators of funeral establishments from allowing free-lance funeral direction. The statute does not prohibit operation of 2 establishments from one location nor regular use of a church for funeral services. 60 Atty Gen. 147.”

REPORT OF THE ADVISORY COMMITTEE ON FUNERAL DIRECTOR APPRENTICESHIP ISSUES

The Board reviewed the latest draft of the Funeral Director Apprentice Training Workbook, the combined application form, and the suggestions of the advisory committee regarding statutory and rule changes.

MOTION: Dan Densow moved, seconded by Rick Unbehaun, to approve the Funeral Director Apprentice Training Workbook. Motion carried unanimously.

MOTION: Bob Cress moved, seconded by Pete Schils, to advise the licensing staff that from this day forward apprentices who are less than 6 months into their apprenticeship should have a choice of continuing with the old materials or of changing to the new workbook. Motion carried unanimously.

Kathy O-Sullivan of the Department of Workforce Development will alert the DWD staff to the actions taken by the Board and will ascertain that apprentices may obtain apprenticeship credit for the time and work performed during their internship.

MOTION: Pete Schils moved, seconded by Rick Unbehaun, to approve the joint application form. Motion carried unanimously.

FAILED MOTION: Pete Schils moved that the Board approves the 3 statutory changes recommended by the advisory committee. There was no second.

MOTION: Dan Densow moved, seconded by Bob Cress, to table until the next meeting action regarding the 3 statutory changes recommended by the advisory committee. Motion carried unanimously.

MOTION: Dan Densow moved, seconded by Rick Unbehaun, to permit apprentices to use the internship time for completion of the apprentice time requirements. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Bob Cress, that the Board should create a rule that an apprentice must perform at least 6 embalming and funeral arrangements during each quarter of the year and that an apprentice may not receive apprenticeship credit for more than 9 embalming and funeral arrangements during each quarter. Motion carried unanimously.

MONITORING OF CONTINUING EDUCATION

The Board noted the letter that staff sent to all respondents in open investigations. The Board encouraged the Department to provide spaces on the renewal application, so that licensees can list the courses they completed. The Board also expressed a preference for more monitoring of continuing education compliance by licensees.

ADMINISTRATIVE WARNING PROCEDURES

The Board noted the memorandum of William Dusso, General Counsel of the Department of Regulation and Licensing, regarding administrative warning procedures. The Board also discussed the preference for Administrative Warnings and Letters of Education, rather than Letters of Concern.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Sale of Vaults by a Cemetery to a Funeral Establishment

The Board discussed a letter, sent to Clyde Rupnow of the Loewen Group International, Inc., by Jacquelynn Rothstein. The Board informally concurred with the contents of the letter. Mark McCool, a representative of the Wisconsin Burial Vault Association, discussed marketing practices and expressed satisfaction with the contents of the letter.

NEW BUSINESS

None.

PUBLIC COMMENTS

None.

RECESS TO CLOSED SESSION

MOTION: Pete Schils moved, seconded by Bonnie Gift, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, reinstatement requests, extension requests, examination challenges, deliberations on stipulations that may be signed after printing of the agenda, pending applications, and disciplinary proceedings. Motion carried unanimously by a roll call vote: Rick Unbehaun-yes; Dan Densow-yes; Bonnie Gift-yes; William Cress-yes; Peter Schils-yes; Roy Pfeffer-yes.

Open Session recessed and Closed Session convened at 12:04 p.m.

CLOSED SESSION

The Board received a copy of the Case Status Report and discussed the status of open investigations with staff in the Division of Enforcement.

The Board deliberated on a monitoring report, continuing education monitoring and disciplinary matters.

RECONVENE IN OPEN SESSION

MOTION: Pete Schils moved, seconded by Rick Unbehaun, to reconvene in Open Session at 1:35 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MONITORING REPORT

MOTION: Pete Schils moved, seconded by Dan Densow, to grant Daniel Newcomer's request for an unlimited license. Motion carried unanimously.

Benjamin Barbour informed the Board that he would not be able to appear, as scheduled, and that he would like to address the Board at its next meeting.

INADEQUATE RESPONSES TO CONTINUING EDUCATION MONITORING

MOTION: Pete Schils moved, seconded by Bonnie Gift, that the staff send the 3 inadequate responses received from licensees to the Division of Enforcement for incorporation into the investigations already opened against the licensees. Motion carried unanimously.

REGULATION OF CREMATORIES

Secretary Marlene Cummings discussed the Board's proposal for the regulation of crematories and she commented on several other issues.

She stated that she would prefer adding the proposed cremation requirements to the laws that govern funeral directors and the laws that govern cemeteries. Thus, the Funeral Directors Examining Board would enforce the requirements when cremations are performed by funeral establishments and the Department or the new Cemetery Board would enforce the requirements when cremations are performed by cemeteries. The Department would enforce the requirements when cremation services are performed by others, such as vault companies.

Secretary Cummings notified the Board of the Board Member Workshop on July 13-14, 2000.

Secretary Cummings also suggested that the Board may be able to resolve some of the problems with the Certificate in Good Standing by making a few rule changes.

ADJOURNMENT

By consensus the meeting was adjourned at 2:14 p.m.